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8 Attorneys for Defendants

9 HSBC MORTGAGE CORPORATION (USA) and
HSBC BANK USA, N.A.

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 Philip Wong, Frederic Chaussy, and Leslie
Marie Shearn, individually, on behalf of all
14 others similarly situated, and on behalf of
the general public,

15 Plaintiffs,

16 v.

17 HSBC Mortgage Corporation (USA);
18 HSBC Bank USA, N.A.; and DOES 1
through 50, inclusive,

19 Defendant.
20

Case No. C 07 2446 MMC [ECF]

**DECLARATION OF LISA LEE IN
OPPOSITION TO PLAINTIFFS' MOTION
FOR CLASS CERTIFICATION UNDER
FED. R. CIV. P. 23**

Date: October 10, 2008
Time: 9:00 a.m.
Courtroom: 7 (19th Floor)
Judge: Hon. Maxine M. Chesney

21 I, Lisa Lee, hereby declare and state:

22 1. I have personal knowledge of the facts set forth below. If called as a witness,
23 I would testify to the following.

24 2. Since November 5, 2007, I have been employed by HSBC Mortgage
25 Corporation (USA) ("HMCU") as a Senior Retail Mortgage Lending Consultant. I am in the
26 Southern California region. My regional sales manager is Amy Young.
27
28

1 3. My primary duty is to sell mortgages, and I spend more than 50% of my time
2 engaged in sales activities.

3 4. HMCU does not require me to follow a particular business plan. At the end of
4 the year, I set my production goal for the next year based on my desired income.

5 5. All lending consultants at HMCU do their jobs differently. Everyone has
6 different income goals, different work ethics and different work hours.

7 6. My managers suggest how to sell mortgages; they just say to put clients first
8 and do what is best for them. My manager also tells me to get out there and meet people that can
9 provide sales referrals, such as CPAs and realtors. I devise my own sales strategies and decide what
10 methods work best for me.

11 7. I work independently. It is like having my own business. I rarely see my
12 manager, Amy Young, in person. I just contact her by email when I have a question, which
13 sometimes occurs only once a week and sometimes occurs several times in a day.

14 8. I obtain the majority of my business from referrals. I receive about 80% of
15 my business from referrals from branches of HSBC Bank USA, N.A. and about 20% of my business
16 from my own sources.

17 9. A big chunk of my business comes from the referrals from branches of HSBC
18 Bank USA, N.A., and past clients. I have been in the mortgage industry for over ten years.

19 10. I also receive referrals from five to seven realtors, one real estate attorney and
20 one CPA who I regularly work with.

21 11. In addition, I receive referrals from friends and family.

22 12. HMCU does not require me to work any particular hours. I determine my
23 own schedule based on my clients' needs and my income goals. My manager tells lending
24 consultants that it's our money, and we can decide how much we want to make and how much to
25 work to achieve our goals.

26 13. HMCU also does not require me to work at any particular location.

27 14. I schedule my own appointments with clients and decide independently when
28 and where to work.

1 15. I am currently the designated person to receive referrals from three branches
2 of HSBC Bank: Los Angeles Chinatown, Alhambra and Rowland Heights. I am in and out of these
3 bank branches on weekdays based on when and where I choose to schedule appointments with
4 clients. The bankers at these branches have my contact information and contact me when a bank
5 customer asks about mortgages. I spend time networking with the bankers and tell them about new
6 promotions, so they will refer business to me. I also refer clients to the bank.

7 16. I choose the location where I meet with clients. Sometimes I meet with
8 clients at bank branches, but I also meet with clients at restaurants or at the client's office.

9 17. I also have more international clients than other lending consultants. I
10 communicate with my international clients by telephone or email.

11 18. HMCU does not require me to do any particular business development
12 activities. I choose what sales tactics to use and what networking to do to develop business. In
13 addition to time I spend meeting with clients and potential clients, I also take a client to lunch about
14 two times per month. Once a week, I visit the realtors who refer business to me. One realtor is
15 located in Arcadia, California and one realtor is located in Diamond Bar, California. I often take
16 these realtors baked goods to develop and maintain my business relationships with them. I also give
17 holiday gifts to clients and realtors, which is something I decided to do on my own.

18 19. Mortgage sales are not a one time deal. It is important to maintain
19 relationships with clients because repeat business is common in this industry. To maintain my
20 relationships with clients, I contact them on their birthdays. I also contact clients when their
21 adjustable rate mortgage (ARM) expires to see if they want to refinance or get a fixed interest rate. I
22 maintain contact with clients even after their mortgages close because I obtain a lot of sales from
23 repeat business and referrals from past clients.

24 20. HMCU does not require me to attend any community events to develop sales.
25 However, I choose to attend some events to network with potential clients and referral sources. I
26 attend events at the realtor companies that give me business about twice a year. I also attend Lions
27 Club events to meet people and pass out my business card. In the past, I attended Lions Club events
28 twice a month, but now I go less often.

1 21. HMCU allows lending consultants to choose how much they want to work. I
2 typically work from 9:00 a.m. to 5:00 p.m. I have to stop working at 5:00 p.m. to pick up my son
3 from school. I sometimes do a little paperwork in the evenings, but not every night. I sometimes
4 meet clients on Saturdays, but not every Saturday.

5 22. The amount of time I spend with each client during the sales process differs. I
6 sell a lot of mortgages to first time home buyers, and they generally have more questions and require
7 more meeting time. About one-half of my clients are first time homebuyers. First time homebuyers
8 require a lot of "hand holding" throughout the process.

9 23. There is no "typical day" in my job. Every day is different. The number of
10 clients I meet with each week varies. How busy I am depends on the season. I am particularly busy
11 during the summer when a lot of people buy houses. Around Christmas, it is pretty slow because a
12 lot of people are on vacation.

13 24. Sometimes, I spend my entire day meeting with clients, and sometimes I only
14 meet with two clients in a week. I also spend a lot of time answering questions from clients and
15 reassuring their concerns.

16 25. When I meet with clients, I assess their financial status and goals. Based on
17 this information, I use my independent judgment to make recommendations as to what type of
18 mortgage will best suit the client's needs.

19 26. In addition to selling mortgages, I also complete loan applications for each
20 client that decides to pursue purchasing a mortgage from HMCU. It only takes me about twenty
21 minutes to fill out each loan application. I also work with clients to fulfill any conditions on their
22 mortgage and follow-up with clients to update them on the status of their loan application and ensure
23 the loan is funded in time for escrow to close.

24 27. Most of my clients are high income clients, and I generally focus my research
25 on updates regarding premier and jumbo loans. Only about 20% of the mortgages I sell are
26 conforming mortgages.

27 28. When I began working at HMCU, I attended a one week training in Buffalo,
28 New York regarding high trust selling. After that, I spend about one to two hours per month

1 learning about new products and guidelines. HMCU has web conferences and telephone
2 conferences that lending consultants can choose to do. I also attend a divisional call with California
3 lending consultants about once every two months. It is important to be knowledgeable about
4 products because demonstrating that knowledge makes clients and referral sources more confident in
5 my abilities, and my sales increase as a result. HMCU does not require lending consultants to
6 complete outside training programs.

7 29. No one at HMCU has ever told me I cannot take breaks or discouraged me
8 from taking breaks. I make my own schedule, and I am permitted to choose when to take breaks and
9 for how long. I take lunch breaks almost every day. I also take cigarette breaks throughout the day
10 because I am a smoker.

11 30. I am paid by HMCU according to a written incentive compensation plan,
12 which I agreed to when I began employment with HMCU and which is emailed to me each year. I
13 know about the compensation plan when I accepted employment at HMCU, and I agreed to the plan.

14 31. Under my compensation plan, the amount of my incentive commissions is
15 determined at the end of each month based on the amount of mortgages I sold that were funded. I
16 am paid my commissions at the end of the month. I also receive a draw at the beginning of each
17 month, which is subtracted from my commissions.

18 32. I make more than \$100,000 per year at HMCU. I have already made about
19 \$130,000 this year as of September 1.

20 33. I receive a report about the amount of my commissions from my manager
21 each month. I have an opportunity to verify that the amount is correct. It has always been correct.

22 34. I have never had any fees or expenses deducted from my compensation by
23 HMCU.

24 35. When I was hired by HMCU, my manager told me that my position was
25 exempt from overtime. I agree with that determination.

26 36. I received two or three notices about this lawsuit from the Plaintiffs'
27 attorneys. I do not want to join this lawsuit because I believe it is frivolous, and I do not want my
28 changes in my compensation plan, flexible work hours or independence. My managers have never

1 threatened that I would lose my job if I joined the lawsuit or otherwise discouraged me from joining
2 the lawsuit.

3 I declare under penalty of perjury under the laws of the State of California and the
4 United States of America that the foregoing declaration is true and correct to the best of my personal
5 knowledge. Executed this 19 day of September, 2008, in Arcadia,
6 California.

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9 LISA LEE
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